

**DURHAM, NORTH CAROLINA
TUESDAY, SEPTEMBER 5, 2006
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read a Proclamation Memorializing Margaret Rose Knight Sanford that was presented to Elizabeth Sanford; a Resolution on Cohesive Cooperation for the Education of Youth in Durham presented to School Superintendent Carl Harris and School Board Chair Minnie Forte-Brown. Also he read proclamations: Cans for Cash Challenge Days [September 15- September 30, 2006] presented to Solid Waste Director Donald Long; Constitution Week [September 17-23, 2006] presented to Ruthann Bond; and Hurricane Katrina Remembrance Month.

Council Member Woodard made comments on the late Mrs. Sanford.

Council Member Brown made comments on the new Center for Senior Life expressing concern that the building is not being fully utilized—too many rooms remain vacant, few programs are being offered and the seniors are not enjoying the benefits of this major commitment that was done by the taxpayers of Durham. He noted the following problems need to be addressed: 1) accountability—donations and grants, how are funds being spent and have funds that have restrictions been adhered to; 2) fundraising – no kitchen at facility; and 3) staffing. He asked City Manager Baker to add this item to the September 21, 2006 Work Session agenda and to invite the Executive Director and Board Chair to be present to answer questions and to address how they can be helpful to get this building and these programs back on track.

Council Member Clement asked that the President and Board Chair of the Council for Senior Citizens be invited as well to September 21, 2006 Work Session.

Regarding a programming benefit for Seniors, Council Member Stith asked the City Manager to provide a report on a one-stop shop for utility bills at the September 21, 2006 Work Session.

Mayor Bell acknowledged Charles Epps for giving away back-to-school supplies for neighborhood kids at Campus Hills. Regarding the East End Connector, the Mayor reported NCDOT Board has adopted its Transportation Improvement Plan which includes the East End Connector and is almost fully funded. Also, he recognized Attorney Kenneth Spaulding for his

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work on the NC Department of Transportation Board and announced an information workshop on East End Connector has been scheduled for September 26 from 4-7 p.m. at the Living Waters Church.

Mayor Bell stated he received correspondence from the U S Conference of Mayors regarding an alert to three illegal gun bills for Markup on September 7. The Mayor gave an overview of H. R. 5005, H.R. 5092 and H.R. 1384 and noted they have been asked to contact the House Committee urging them to vote no on these bills. Mayor Bell stated he will be writing to the House Committee representatives asking them to not support these bills and asked City Manager Baker to add this item to the September 7, 2006 City Council Work Session.

Council Member Clement made comments on the national meeting held in Washington, DC on juvenile crime.

Council Member Stith asked the City Manager if requested items regarding violent crime was on Thursday's Work Session agenda.

City Manager Baker noted a presentation from the Police Department will be added as a supplemental item.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. There were no priority items.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 10 [Two Pothole Patchers], 26 [Campus Hill Park Renovations Phase I], 27 [Work-Out Options for Delinquent Residential Borrowers], 28 [Minimum Housing Code], and 32 [Durham Walks Comprehensive Pedestrian Plan] were pulled.

MOTION by Council Member Clement seconded by Council Member Brown to approve the Consent Agenda as amended was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Clement seconded by Council Member Brown to approve City Council Minutes for the August 7, 2006 Regular City Council Meeting; and

To approve the City Council Action taken at the August 10, 2006 Work Session was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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SUBJECT: CAPITAL PROGRAM ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Clement seconded by Council Member Brown to receive and accept an application to fill one (1) seat on the Capital Program Advisory Committee to represent the category of Financial Management with a term to expire on March 31, 2008 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Clement seconded by Council Member Brown to receive and accept applications to fill two (2) vacancies on the Citizens Advisory Committee with terms expiring on June 30, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: FIREMEN’S RELIEF FUND BOARD OF TRUSTEES – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Clement seconded by Council Member Brown to receive and accept an application for a citizen to fill one (1) vacancy on the Firemen’s Relief Fund Board of Trustees with the term expiring on January 1, 2008 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGYBACK PURCHASE – ONE CASE 621D WHEEL LOADER - BRIGGS CONSTRUCTION EQUIPMENT, INC.

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to enter into a contract with Briggs Construction Equipment, Inc., in the amount of \$102,314, for providing the City with one Case 621D Wheel Loader; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: BID REPORT – JULY 2006

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MOTION by Council Member Clement seconded by Council Member Brown to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of July 2006 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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To: Patrick W. Baker, City Manager
Through: Wanda S. Page, Assistant City Manager
Kenneth C. Pennoyer, Finance Director
From: Joseph W. Clark, Purchasing Manager
Subject: Bid Report - July 2006

Recommendation

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of July 2006.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. **Bid:** **Contract Extension - Estimated Annual Requirements for Lubricants**

Purpose of Bid: To provide City Departments/Divisions with their annual usage of anti-freeze, motor oil, etc.

Comments: Hutchens Petroleum agreed to extend the current contract under the conditions of the bid.

Opened: August 12, 2005

Bidders: Hutchens Petroleum *\$99,389.00
Stuart, VA

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	34		# Black Males	1	05%
Total # Females	10	25%	# White Males	23	70%
Total # Males	24	75%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	9	20%

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Other Females 1 05%

The SDBE Data Base was used in the solicitation of bids for this item.

2. **Bid: Hydrofluosilicic Acid 23% (400 tons)**

Purpose of Bid: To provide Water Management drinking water facilities with their annual requirements for HFS.

Comments: This is the final chemical added to the drinking water for the prevention of tooth decay. CFS failed to identify the manufacturers of the product per the bid requirements; without this information we were unable to determine the quality of the product or if it would meet specifications.

Opened: June 1, 2006

Bidders:	CFS Enterprises (not a responsible bid)	\$94,316.00
	Charlotte, NC	\$235.79/ton
	Lucier Chemical (LCI, Ltd)	*\$99,200.00
	Jacksonville Beach, FL	\$248.00/ton

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	15		# Black Males	1	13%
Total # Females	7	47%	# White Males	6	27%
Total # Males	8	53%	# Other Males	1	13%
			# Black Females	0	0%
			# White Females	7	47%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

3. **Bid: One Detachable Gooseneck Trailer**

Purpose of Bid: To provide the Fleet Maintenance Division with a trailer

Comments:

Opened: July 18, 2006

Bidders: Gregory Poole Equipment Co. * \$52,750.00

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Raleigh, NC
Thompson Tractor Co. \$54,540.00
Birmingham, AL

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	671		# Black Males	43	6.4%
Total # Females	91	13.5%	# White Males	518	77.2%
Total # Males	580	86.5%	# Other Males	19	2.8%
			# Black Females	7	1.0%
			# White Females	83	12.4%
			# Other Females	1	0.1%

The SDBE Data Base was used in the solicitation of bids for this item.

4. **Bid:** **Contract Extension – Term Contract for Automotive Batteries**

Purpose of Bid: To provide the Fleet Maintenance Division with a fixed price term contract for automotive batteries.

Comments: East Penn Manufacturing agreed to extend the contract per the existing conditions of the contract.

Opened: July 16, 2004

Bidders: East Penn Manufacturing Company, Inc. * \$48,950.84
Lyon Station, PA

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	5067		# Black Males	174	(3%)
Total # Females	992	(20%)	# White Males	3492	(69%)
Total # Males	4075	(80%)	# Other Males	409	(8%)
			# Black Females	18	(1%)
			# White Females	892	(17%)
			# Other Females	82	(2%)

The SDBE Data Base was used in the solicitation of bids for this item.

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Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

**SUBJECT: PIGGYBACK PURCHASE – TWO FIRE AND RESCUE VEHICLES -
SUTPHEN CORPORATION**

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to enter into a contract with the Sutphen Corporation., in the amount of \$582,440.62, for providing the City with two Fire and Rescue Pumps; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: PIGGYBACK PURCHASE – TWO ROAD TRACTORS -
INTERNATIONAL TRUCK AND ENGINE CORPORATION**

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to enter into a contract with International Truck and Engine Corporation, in the amount of \$173,974, for providing the City with two Road Tractors; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: PIGGYBACK PURCHASE – THREE CASE 590SM BACKHOE
LOADERS - BRIGGS CONSTRUCTION EQUIPMENT, INC.**

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to enter into a contract with Briggs Construction Equipment, Inc., in the amount of \$223,250, for providing the City with three Case 590SM Backhoe Loaders; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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SUBJECT: PIGGYBACK PURCHASE – ONE CASE 580SM BACKHOE LOADER - BRIGGS CONSTRUCTION EQUIPMENT, INC.

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to enter into a contract with Briggs Construction Equipment, Inc., in the amount of \$66,004, for providing the City with one Case 580SM Backhoe Loader; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: REIMBURSEMENT DECLARATION FOR THE PROPOSED VEHICLE REPLACEMENT CERTIFICATES OF PARTICIPATION (COPS)

MOTION by Council Member Clement seconded by Council Member Brown to adopt a resolution declaring the intent of the City of Durham to reimburse itself for capital expenditures incurred in connection with the acquisition of general government equipment from the proceeds of certain tax-exempt obligations to be executed and delivered during Calendar Year 2006 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9380

SUBJECT: SETTING PUBLIC HEARING FOR SEPTEMBER 18, 2006 FOR FY 2005-2006 DRAFT CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

MOTION by Council Member Clement seconded by Council Member Brown to set the FY 2005-2006 draft Consolidated Annual Performance and Evaluation Report (CAPER) public hearing for September 18, 2006 to receive public comments was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: STREET ACCEPTANCE - RIDGEFIELD – PH 7A, 8A, 8B

MOTION by Council Member Clement seconded by Council Member Brown to accept the streets listed for maintenance by the City of Durham was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ridgefield – PH 7A, 8A, 8B

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- 1) Knightwood Drive** – from the beginning of construction @ STA 12+20 south thru the cul-de-sac (1,187') and
- 2) Fielding Court** – from the centerline of Knightwood Drive west thru the cul-de-sac (425') and
- 3) Statler Drive** – from STA 18+98.59 east to the centerline of Knightwood drive (1,229') and
- 4) Bengel Drive** – from STA 12+10.85 east to the centerline of Knightwood drive (1,098') and
- 5) Magna Drive** – from the centerline of Knightwood Drive west to the centerline of Statler Drive (1,563') and
- 6) Weather Street** – from the centerline of Magna Drive north to end of construction @ STA 12+89 (126'.)

**SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING
PETITIONED IMPROVEMENTS - SIDEWALK ON JULIETTE DRIVE -
SIDEWALK ON SOUTH ROXBORO STREET**

MOTION by Council Member Clement seconded by Council Member Brown to accept a Certificate of Sufficiency from the Manager of Engineering for each of the following petitions; and

To adopt a resolution setting a public hearing for September 18, 2006, to consider ordering each of the following improvements was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Sidewalk on Juliette Drive (North Side) from South Roxboro Street to PIN #0729-01-16-2672, and

Sidewalk on South Roxboro Street (East Side) from Juliette Drive South to Greyfield Boulevard.

**SUBJECT: CONTRACT FOR PROVISION OF PUBLIC HEARING SIGNS - RTP
SIGNS AND GRAPHICS**

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to execute a contract with RTP Signs and Graphics to provide public hearing signs to the Planning Department in an amount not to exceed \$64.00 per sign was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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SUBJECT: STREET CLOSING – SET A PUBLIC HEARING ON THE CLOSING OF 253.01 LINEAR FEET (15,481 SQUARE FEET) OF WALSENBURG DRIVE (SC06-01)

MOTION by Council Member Clement seconded by Council Member Brown to adopt a resolution to set a public hearing on the proposed closing of 253.01 linear feet (15,481 square feet) of Walsenburg Drive (SC06-01) for October 2, 2006 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9381

SUBJECT: STREET CLOSING – SET A PUBLIC HEARING ON THE CLOSING OF 396.38 LINEAR FEET (15,415 SQUARE FEET) OF SOUTH GOLEY STREET (SC06-07)

MOTION by Council Member Clement seconded by Council Member Brown to adopt a resolution to set a public hearing on the proposed closing of 396.38 linear feet (15,415 square feet) of South Goley Street for October 2, 2006 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9382

SUBJECT: MAJOR SITE PLAN – PALLADIAN OFFICE PARK, PHASE 1B (D06-048)

MOTION by Council Member Clement seconded by Council Member Brown to approve a major site plan for “Palladian Office Park, Phase 1B,” submitted by Coulter, Jewel, Thames, PA, on behalf of Park Ridge Corporate, LLC, for 105,000 square foot office building and related infrastructure on an 18.47 acre portion of a 42.15 acre site zoned OI (D), F/J-B and MTC -- the property is located east of I-40 and Leigh Farm Road, and north of NC 54. PIN 0708-02-58-5943, 1720, 0708-02-59-2353, 8182, 4669, 0708-01-48-9924 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: INTERLOCAL AGREEMENT FOR HOLLOW ROCK PORTION OF THE NEW HOPE CREEK PLAN (ALSO KNOWN AS ERWIN TRACE PROPERTY) - COUNTY OF DURHAM - COUNTY OF ORANGE AND TOWN OF CHAPEL HILL

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to execute an Interlocal Cooperation Agreement for the Acquisition, Planning and

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Operation of the Hollow Rock Portion of the New Hope Creek Plan by and among the County of Durham, the City of Durham, the County of Orange and the Town of Chapel Hill was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CITY OF DURHAM EMPLOYMENT AND TRAINING 2005-2007 GRANT PROJECT ORDINANCE SUPERSEDING GRANT PROJECT ORDINANCE #13293

To authorize the City Manager to accept the City of Durham Employment and Training 2005-2007 Grant by executing the grant documents; and

To adopt the City of Durham Employment and Training 2005-2007 Grant Project Ordinance superseding Grant Project Ordinance #13293.

Note: This item was approved at the August 24, 2006 Work Session with a vote of 6/0. Ordinance #13301

SUBJECT: WORKFORCE INVESTMENT ACT (WIA) CONTRACT – GENERAL MANAGEMENT SOLUTIONS, INC.

To authorize the City Manager to execute an amendment to the WIA Contract for General Management Solutions, Inc. to increase the contract amount by \$29,223.00 to allow additional workforce related services;

To authorize the City Manager to make changes as may be needed so long as they do not increase the dollar amount of the contract nor alter the completion date of the contract; and

To approve contingent upon the adoption of the amendment to Project Ordinance #13293.

Note: This item was approved at the August 24, 2006 Work Session with a vote of 6/0.

SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF DOWNTOWN PARKING DECK RENOVATION PROJECTS - WALTER P. MOORE ENGINEERS + CONSULTANTS

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to enter into an agreement with Walter P. Moore Engineers + Consultants in the amount of \$781,000.00;

To authorize the City Manager to make changes to the agreement before execution provided that the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City;

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To authorize the City Manager to establish a project contingency in the amount of \$78,100.00 for any unforeseen project costs; and

To authorize the City Manager to negotiate and execute change orders on the Walter P. Moore Engineers + Consultants agreement the total cost of services does not exceed \$859,100.00 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: LEASE AGREEMENT BETWEEN THE CITY OF DURHAM AND THE STATE OF NORTH CAROLINA - 1811 CAMDEN AVENUE

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to execute the 20-year Lease Agreement with an automatic renewal of one 10-year term with the State of North Carolina to lease space on the radio tower at Parcel #159788 – 1811 Camden Avenue--under the authority of G.S. 160A-274; and

To authorize the City Manager to make changes to the Lease, prior to execution, provided such changes do not materially affect the intent and purpose of the Lease and agenda memo was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PROPOSED ACQUISITION OF PARCEL # 192288 FROM JACK D. ELLIS FOR THE FUTURE EXPANSION OF LAKE MICHIE – 3413 PAT TILLEY ROAD

MOTION by Council Member Clement seconded by Council Member Brown to approve the fee simple absolute acquisition of 1.58± acres and improvements from Mr. Jack D. Ellis, identified as Parcel ID 192288 (1.58± acres) for \$62,000.00 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: COOPERATION AGREEMENT WITH THE DURHAM HOUSING AUTHORITY AND THE COMMUNITY BUILDERS INC. – HOLMAN HOMES DEVELOPMENT

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to execute a cooperation agreement with the Housing Authority and TCB-DVI Holman Homes, LLC to establish tax payments, PILOT payments, and City service provisions for the proposed Holman Homes family rental development; and

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To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: WAL-MART FOUNDATION SAFE NEIGHBORHOOD HEROES GRANT AWARD

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to accept the Wal-Mart Foundation Safe Neighborhood Heroes Grant by executing the grant documents; and

To adopt the Wal-Mart Foundation Safe Neighborhood Heroes Grant Project Ordinance in the amount of \$1,000.00 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13302

SUBJECT: DURHAM CYBERCRIME GRANT AWARD AND AUTHORIZATION TO USE FEDERAL ASSET FORFEITURE FUNDS TO PROVIDE THE REQUIRED MATCHING FUNDS FOR THE PROJECT

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to accept the North Carolina Department of Crime Control and Public Safety, Division of Governor's Crime Commission, Durham Cybercrime Grant by executing the grant documents;

To adopt the North Carolina Department of Crime Control and Public Safety, Division of Governor's Crime Commission, Durham Cybercrime Grant Project Ordinance in the amount of \$35,734.00; and

To authorize the Police Department to use Federal Asset Forfeiture Funds in the amount not to exceed \$8,933.50 to provide the required matching funds for the Durham Cybercrime Grant Project was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13303

SUBJECT: TRANSIT CAPITAL GRANT

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MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to accept the FY2006-07 Section 5307 Bus Grant by executing the grant documents; and

To adopt the FY2006-07 Section 5307 Bus Grant Project Ordinance was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13304

SUBJECT: CONTRACT AMENDMENT – MICROSOFT ENTERPRISE SOFTWARE LICENSING AGREEMENT TRUE-UP REPORT FOR FY 2006 – COMPUCOM SYSTEMS INC.

MOTION by Council Member Clement seconded by Council Member Brown to authorize the City Manager to execute an amendment to the Microsoft Enterprise Agreement with Compucom Systems Inc. in the amount of \$89,055.52 to cover the cost of 116 additional software licenses; and

To authorize the City Manager to modify the amendment before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM CULTURAL MASTER PLAN ADVISORY BOARD PROPOSED FIRST ROUND SPENDING PLAN TO IMPLEMENT INITIATIVES OUTLINED IN THE DURHAM CULTURAL MASTER PLAN

To receive a presentation on the Durham Cultural Master Plan Advisory Board proposed spending plan to implement the Durham Cultural Master Plan.

Note: A presentation was received at the August 24, 2006 Work Session.

SUBJECT: DALE MCKEEL

To receive comments from Dale McKeel regarding the Third Fork Creek Greenway.

Note: Comments were received at the August 24, 2006 Work Session.

SUBJECT: FLYING CIRCUS ENGLISH CARS LTD.

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To receive comments from Sarah Briggs regarding the new False Alarm Ordinance.

Note: This item was referred back to the administration at the request of the City Manager.

SUBJECT: JOHNNY C. CARTER

To receive comments from Johnny C. Carter concerning the unresolved issues of unfair treatment from Housing and Community Development and repeated victimization by law enforcement.

Note: Comments were received at the August 24, 2006 Work Session.

SUBJECT: FREDERICK SAUNDERS

To receive comments from Frederick Saunders regarding the gravel road in their neighborhood.

Note: Citizen did not appear at the August 24, 2006 Work Session.

SUBJECT: 9/11 NEVER FORGET MEMORIAL PROJECT

To receive a recommendation from the City Manager concerning the “9/11 Never Forget” Memorial Project.

Note: A recommendation will be received at the September 7, 2006 Work Session.

SUBJECT: RESOLUTION MEMORIALIZING GEORGE WATTS CARR, JR.

MOTION by Council Member Clement seconded by Council Member Brown to adopt a Resolution Memorializing George Watts Carr, Jr. was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9387

Council Member Stith asked that Consent Agenda Items #26 and 27 be heard at this item.

[ITEMS PULLED FROM THE AGENDA]

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**SUBJECT: AMENDMENT TO AGREEMENT FOR LANDSCAPE
ARCHITECTURAL SERVICES FOR CAMPUS HILLS PARK
RENOVATIONS PHASE I - REGENBOGEN ASSOCIATES**

Council Member Stith asked staff what would be the implication of excluding this project from GS 143-64.31.

General Services Director Mark Greenspan noted the general statute allows the City to amend the contract rather than reissuing a qualification based selection process. He noted this design professional has been under contract since 2005, and by extending the contract staff would be able to move into the remaining design phase as quickly as possible, it eliminates the administrative process, recognizes the fact that staff has already had an executed agreement and the City Attorney requested that this provision be added.

Council Member Stith asked staff is this provided for in the statute to do this.

General Services Director Mark Greenspan replied yes.

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a resolution exempting the Campus Hills Park Renovations project from GS 143-64.31;

To authorize the City Manager to execute a contract amendment to Agreement for Landscape Architectural Services for Campus Hills Park Improvements Phase I with Regenbogen Associates in the amount of \$36,957 so that the total contract amount will not exceed \$82,469.00;

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City;

To increase the project contingency to \$3,696.00; and

To authorize the City Manager to negotiate and execute change orders on the Campus Hills Park Renovations Phase I project provided the cost of each change order does not exceed \$3,696.00 and the total project cost does not exceed \$86,165.00 and the total project cost does not exceed the applicable project ordinance was approved at 7:54 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9383

**SUBJECT: AUTHORIZATION TO IMPLEMENT WORK-OUT OPTIONS FOR
RESIDENTIAL BORROWERS WHO ARE DELINQUENT**

Council Member Stith asked staff would Council have final approval on work-out options.

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Community Development Director Mike Barros replied no unless the dollar amount is changed.

Council Member Stith expressed concern with taking Council out of the loop on approving work-out options due to challenges with loans and collection of loans.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to implement informal work-out options; and

To authorize the City Manager to execute loan modification agreements that will not decrease the principal balance of the loan was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

[SUPPLEMENTAL ITEM]

SUBJECT: RESOLUTION ON COHESIVE COOPERATION FOR THE EDUCATION OF YOUTH IN DURHAM

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to adopt a Resolution on Cohesive Cooperation for the Education of Youth in Durham was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9388

[GENERAL BUSINESS AGENDA]

SUBJECT: APEX STREET BRIDGE

To authorize the City Manager to implement alternative three to demolish the existing bridge and construct a pedestrian ramp on the east side of the American Tobacco Trail to match the existing pedestrian ramp on the west side.

Katie Kalb, Director of Public Works, made comments on this item. She noted staff recommends the alternative that would move the existing bridge and install a ramp down to the American Tobacco Trail.

Council Member Woodard asked staff to provide completed construction timeline on the four options.

Katie Kalb, Director of Public Works, noted Option 1 – repair the bridge for pedestrian use would be completed in 1.5 years assuming there is funding in 2007. She noted staff has funding for design, but would need funding for construction for whatever alternative Council selects.

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Council Member Woodard asked staff if any of the options were funded.

Katie Kalb, Director of Public Works, said staff has no funding for construction.

For clarification, Council Member Woodard asked staff if this item would have to go through the entire CIP budget process for the FY 2007-08.

Katie Kalb replied yes, unless you select alternative 4 which staff would have 80% funding from DOT and in that case we would not get funding until 2009—that is to construct a vehicle bridge.

Council Member Woodard noted none of the options will be completed until 2008/2009 and with a vehicular bridge it would be 2010 or 2011.

Mayor Pro Tempore Cole-McFadden asked staff to recap what happened between 2001 and 2004.

Katie Kalb, Director of Public Works, noted in 2004, staff came back to Council with the municipal agreement to enter into a municipal bridge program and brought back municipal agreement to Council at which time discussion occurred again as to whether or not they should have a vehicular bridge or pedestrian bridge. She said there was discussion most of the summer and in the fall and Council voted to replace the vehicular bridge to keep it a pedestrian bridge. At that point, she stated they dropped the idea of being in the DOT municipal bridge program and entered into work focusing on building a pedestrian bridge. She noted staff came back to Council in 2005 with a design contract and staff ended up doing a study that was shared with Council last summer. She reported the study looked at the condition of the bridge, what alternatives it would take in order to fix or replace the bridge and at that time a third alternative was developed to eliminate the bridge and put in a ramp down to the American Tobacco Trail. Ms. Kalb stated staff had discussion with Council this summer and again the issue came back up whether to have a vehicle bridge or pedestrian bridge and brought back to the last Work Session four alternatives—three pedestrian alternatives and one vehicle bridge alternative.

Mayor Pro Tempore Cole-McFadden asked staff what was the reason for the long gap between 2001 and 2004 in terms of getting funding.

Katie Kalb, Director of Public Works, highlighted when Council voted to have the municipal bridge program, there was no money in either the City's CIP or in the state program for this bridge. She noted funding had to be acquired, the project had to be placed in the TIP and a municipal agreement had to be developed with NCDOT to do this work. She reported the effort behind the agreement was dragged out some because staff was attempting to have NCDOT, as it had been their practice in the past, do the bridge for the City—the design and construction. She noted they ultimately decided they did not have the staff to do that and ultimately the municipal agreement reflected the fact that the City was going to have to get the design engineer, bid the project, oversee the construction with NCDOT following up on every single step and it was lengthy process. Ms. Kalb reported in 2001, when Council adopted this program, staff and Council knew at that time it was going to be five to six years before they were going to get

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anywhere because that's how long it would take to get these projects into the queue, obtain funding and move forward with these projects with NCDOT.

The following individuals spoke in support of the Apex Street Bridge being opened to vehicular traffic: Beart Truitt-Braswell, Denise Hester, Larry Hester, Rev. Casimm Brown. They cited issues of access/fairness, voting rights access to a polling location, no one neighborhood should be able to dictate for a whole community, it was its original use, Council's original vote, and deterioration between communities.

The following individuals spoke in support of the Apex Street Bridge being a pedestrian ramp: Joe Chambliss and Jim Haviland. They cited pathway will increase connectivity, access to park, address safety—cut-through traffic/speeding--issues, costs, enhance relationships between neighborhoods, support for staff's recommendation, and noted the Forest Hills Neighborhood and others raised money [\$3,800] for the purpose consistent with the pedestrian option and use of the American Tobacco trail, consistent with what the majority of the folks on both sides of the bridge want.

For clarification, Mayor Bell noted this item is not a public hearing.

Mayor Pro Tempore Cole-McFadden asked staff what is the cost of the vehicular bridge.

Public Works Director Katie Kalb noted the estimated cost for a vehicular bridge is \$1 million and the City's portion would be 20% -- \$200,000—assuming the City would receive the NCDOT reimbursement of the same municipal bridge deal as before. She reported the City would have to pay \$1million upfront which would have to be budgeted for in the CIP and the City would be reimbursed by NCDOT.

Mayor Bell outlined purpose of this item.

City Manager Baker gave an overview on the scheduling of this item.

City Attorney Blinder briefed Council on several different procedures under state law for dealing with issues on the use of a street. He made comments on the procedures for a street closing and the action to prohibit vehicular traffic upon a public bridge of the City which is the procedure that the City would follow for this item.

Public Works Director Katie Kalb outlined the cost to the City for alternatives 1 through 4.

Council Member Woodard asked staff questions regarding the delay and made comments on his four site visits. He noted opening the Apex Street Bridge to vehicular traffic would create a cut-through traffic route and stated Council will build stronger connections and offer pedestrian safer spaces by constructing a pedestrian ramp from the south side neighborhoods to the American Tobacco Trail as proposed. He urged Council to support staff's recommendation-- Alternative 3 as printed on the agenda.

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A motion was made by Council Member Woodard seconded by Council Member Catotti to approve staff's recommendation as printed on the agenda.

Council Member Catotti made comments on her site visits in 2004 and recently and as a result of conversations, there was a preference expressed in consideration with option 3 to complete the path prior to demolishing the bridge. She asked staff is that possible?

Public Works Director Katie Kalb noted staff will review this issue.

Council Member Catotti made comments in support of pedestrian connectivity.

A substitute motion was made by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to adopt option 4 [Demolish the existing bridge and construct a vehicular bridge—80% NCDOT reimbursement, City cost \$200,000].

Several Council Members made comments in favor of the original motion.

Mayor Pro Tempore Cole-McFadden and Council Member Clement spoke in support of substitute motion.

The Mayor gave an overview of Council action taken on this item. He noted this item was decided by the Council on October 1, 2001 to replace the bridge—a vehicular bridge, and came to this Council on June 21, 2004 which was postponed to the July 24 Work Session. On August 2, 2004, it came before the Council and the first vote was to approve the municipal agreement which failed; however, later in that meeting, he appealed to Council to take action on a pedestrian bridge which passed unanimously.

SUBSTITUTE MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to adopt option 4--Demolish the existing bridge and construct a vehicular bridge—80% NCDOT reimbursement, City cost \$200,000 **FAILED** at 9:20 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Member Clement. Noes: Mayor Bell and Council Members Brown, Catotti, Stith and Woodard. Absent: None.

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to implement alternative three to demolish the existing bridge and construct a pedestrian ramp on the east side of the American Tobacco Trail to match the existing pedestrian ramp on the west side was approved at 9:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Stith and Woodard. Noes: Council Member Clement. Absent: None.

Mayor Bell noted one of the issues that came up when he visited the area was the need to slow down the traffic on South Street and Fargo Street and a suggestion was made to put in speed humps. The Mayor stated he knows the process for speed humps, but he asked Council to consider an exception to the rule to ask the administration to pursue speed humps.

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On the south side, Council Member Catotti noted there is a need for narrowing the road, striping for parking as other means to slow traffic so she asked the administration to consider these options as well.

Public Works Director Katie Kalb noted staff will review all manner of traffic calming measures and acknowledged there are traffic calming funds available.

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

SUBJECT: CURB, GUTTER AND PAVING ON BISCAYNE ROAD FROM N.C. HIGHWAY 54 TO DRESDEN DRIVE AND DRESDEN DRIVE FROM BISCAYNE ROAD TO N.C. HIGHWAY 54 – MINI ASSESSMENT ROLL -

Engineering Manager Lee Murphy made comments on this item. He noted assessments have been completed, properties have benefited and staff's recommendation is to confirm assessment rolls as printed.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

a. Property of Paul and Joan H. Novak

MOTION by Council Member Stith seconded by Council Member Woodard to find that the property of Paul and Joan H. Novak, identified as 4820 Biscayne Road, PIN #0719-03-00-2294, has benefited from the curb, gutter & paving improvement and to confirm the assessment in the original amount of \$3,000.00.

To find that the property of Paul and Joan H. Novak, identified as Biscayne Road, Lots 98 & 99, PIN 0719-03-00-4214, has benefited from the curb, gutter & paving improvement and to confirm the assessment in the original amount of \$2,000.00 was approved at 9:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

b. Property of Brett W. J. Bushnell

MOTION by Council Member Stith seconded by Council Member Woodard to find that the property of Brett W. J. Bushnell, identified as 5004 Dresden Drive, PIN #0718-01-09-3902, has benefited from the curb, gutter & paving improvement and to confirm the assessment in the original amount of \$1,986.40 was approved at 9:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

c. Property of Stephen J. Fogarty

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MOTION by Council Member Stith seconded by Council Member Woodard to reconsider the assessment against the property of Stephen J. Fogarty, identified as 5000 Dresden Drive, Biscayne Road side, PIN #0719-03-00-3002, and to find that the property has benefited from the curb, gutter & paving improvement and to confirm the assessment in the original amount of \$2,800.00.

To reconsider the assessment against the property of Stephen J. Fogarty, identified as 5000 Dresden Drive, PIN #0719-03-00-3002, and to find that the property has benefited from the curb, gutter & paving improvement and to confirm the assessment in the original amount of \$1,400.00 was approved at 9:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: WATER AND SEWER LATERALS ON BISCAYNE ROAD FROM N.C. HIGHWAY 54 TO DRESDEN DRIVE AND DRESDEN DRIVE FROM BISCAYNE ROAD TO N.C. HIGHWAY 54 – MINI ASSESSMENT ROLL - PAUL AND JOAN H. NOVAK

Engineering Manager Lee Murphy made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to find that the property of Paul and Joan H. Novak, identified as Biscayne Road, Lots 98 & 99, PIN 0719-03-00-4214, has benefited from the water and sewer lateral improvements; and

To confirm the water and sewer lateral assessments in the original amounts of \$486.00 and \$864.00 respectively was approved at 9:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PLAN AMENDMENT (A06-04)— COOK ROAD TOWNHOMES – MIKE DEHGAN, D. EIGHT CORPORATION – EAST OF COOK ROAD, SOUTH OF MARTIN LUTHER KING, JR. PARKWAY AND NORTH OF BROWN STREET

To receive public comments on the Cook Road Townhomes (A06-04) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Low Density Residential (4 DU/Ac or less) to Low-Medium Density Residential (4-8 DU/Ac).

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Staff Recommendation: Approval, based on the request being justified and meeting the criteria for plan amendments

Planning Commission Recommendation: Approval, 8-5 based on compatibility with nearby densities.

City/County Planning Director Frank Duke briefed Council on the plan amendment. He noted he was advised by the applicant that they would like for Council to continue this public hearing until the October 2, 2006 City Council Meeting in order to make revisions to the development plan that is associated with the corresponding zoning map change.

Mayor Bell opened the public hearing.

Al Maness, representing the applicant, urged Council to continue the public hearing until October 2, 2006 City Council Meeting to allow the applicant time to refine and improve their development plan.

No one spoke in opposition to this plan amendment.

MOTION by Council Member Stith seconded by Council Member Woodard to continue the public hearing on this item to the October 2, 2006 City Council Meeting was approved at 9:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PLAN AMENDMENT (A06-07) — HIGHGATE II – CITY OF DURHAM – SOUTH OF NC 54 AND NORTH AND EAST OF HIGHGATE DRIVE

To receive public comments on the Highgate II (A06-07) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Medium Density Residential (6-12 DU/Ac) to Office.

Staff Recommendation: Approval, based on the justification and meeting the criteria for plan amendments.

Planning Commission Recommendation: Approval, 13-0 based on recent change in zoning.

City/County Planning Director Frank Duke briefed Council on the plan amendment.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments on the Highgate II (A06-07) Plan Amendment; and

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To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Medium Density Residential (6-12 DU/Ac) to Office was approved at 9:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9384

SUBJECT: PLAN AMENDMENT (A06-10) – FAYETTEVILLE ROAD SENIOR COMMUNITY – WOOD PARTNERS – SOUTHEAST CORNER OF THE INTERSECTION OF FAYETTEVILLE ROAD AND WOODCROFT PARKWAY

To receive public comments on the Fayetteville Road Senior Community (A06-10) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Low-Medium Density Residential (4-8 DU/Ac.) to Medium Density Residential (6-12 DU/Ac.).

Staff Recommendation: Approval, based on the request being justified and meeting the criteria for plan amendments.

Planning Commission Recommendation: Approval, 13-0 based primarily on compatibility with nearby uses.

City/County Planning Director Frank Duke briefed Council on the plan amendment.

Mayor Bell opened the public hearing.

Ron Perera, representing the applicant, spoke in support of plan amendment. He made comments on the projects they have completed in Durham and on the proposed plan for a Senior Community project.

Bob Zumwalt, representing the applicant, made comments in support of plan amendment.

Joan Davis, of the Woodlake Homeowners Association, thanked Council for their support and noted they would like to see this project move forward as proposed and stated the Woodlake Homeowners Association has no objection to the proposed plan amendment.

No one spoke in opposition to plan amendment.

Mayor Bell closed the public hearing.

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MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments on the Fayetteville Road Senior Community (A06-10) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Low-Medium Density Residential (4-8 DU/Ac.) to Medium Density Residential (6-12 DU/Ac.) was approved at 9:40 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9385

**SUBJECT: PLAN AMENDMENT (A06-11) – EPHESUS CHURCH ROAD
SUBURBAN TRANSIT AREA – CITY OF DURHAM – DURHAM
COUNTY –FARRINGTON ROAD AND GEORGE KING ROAD**

To receive public comments on the Ephesus Church Road Suburban Transit Area (A06-11) Plan Amendment; and

To adopt a resolution to remove the Suburban Transit Area from the Future Land Use Map of the Durham Comprehensive Plan.

Staff Recommendation: Approval, based on the request being justified and meeting the criteria for plan amendments.

Planning Commission Recommendation: Approval, 13-0 based on the relocation of the transit line.

City/County Planning Director Frank Duke briefed Council on the plan amendment. He noted staff, the Planning Commission and the Durham County Board of Commissioners voted to approve this request.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Brown to receive public comments on the Ephesus Church Road Suburban Transit Area (A06-11) Plan Amendment; and

To adopt a resolution to remove the Suburban Transit Area from the Future Land Use Map of the Durham Comprehensive Plan was approved at 9:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9386

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SUBJECT: STREET CLOSING – UNNAMED ALLEY - A 179.69 LINEAR FOOT PORTION OF AN UNNAMED ALLEY OFF NORTH ROXBORO STREET, SOUTH OF EAST MURRAY AVENUE AND NORTH OF EAST EDGEWOOD DRIVE (SC06-02) – JOHN TRAN

To receive public comments on the closing of a 179.69 linear foot portion of an unnamed alley located west of North Roxboro Street, south of East Murray Avenue and north of East Edgewood Drive; and

To adopt an Order permanently closing 179.69 linear feet of an unnamed alley located west of North Roxboro Street, south of East Murray Avenue and north of East Edgewood Drive, conditioned on the recombination of lots.

City/County Planning Director Frank Duke briefed Council on the staff report. He noted staff is recommending approval and all service agencies have indicated that this closure would have no impact on service delivery.

Mayor Bell opened the public hearing.

Duane Stewart, representing the applicant, spoke in support of this street closing. He noted the alley has never been opened and Mr. Tran owns properties on both sides of the alley which he has requested to be closed. Also, he made comments on the other piece of property he owns which adjoins one of these two properties. Mr. Stewart noted three parcels combined have a total of three drive-ways which front on North Roxboro Street. He referenced that the applicant has a site plan that is being reviewed by staff which will allow all three drive-ways to be abandoned and has worked out an agreement with the City's Transportation Department to replace the three drive-ways with only one drive-way to serve all three parcels of land which would make the traffic situation in this area much safer.

Relative to an e-mail dated September 5 from Eric Pauken, Council Member Stith noted there was a concern regarding environmental issues in the back of the property.

Deputy City Manager Ted Voorhees stated he learned of the e-mail today and forwarded these concerns to three departments [Neighborhood Improvement Services Department, Storm Water and Solid Waste Management] for investigation and should receive a report in a few days on what action should be taken if necessary.

Council Member Stith noted he did not want to move forward until after staff's investigation.

John Tran, the applicant, made comments on what he had to do to the property when he became the owner of three properties.

Duane Stewart, representing the applicant, made comments on the alley and stream. He stated when the applicant purchased the property, Mr. Tran went in to clean up the area and he has not been served with any notice of violation.

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John Tran, the applicant, referenced conversations he had with the Housing Department regarding a cleanup effort.

Council Member Clement asked staff to provide a report on statements made by Eric Pauken in an e-mail to Council at the September 7, 2006 Work Session and made comments in support of a deferral.

City Manager Baker noted staff would review this issue. He asked Mr. Duke what impact the alley closing has on the responsibilities of the property owner if there is trash or problems on the property.

City/County Planning Director Frank Duke noted closing the right-of-way would make it easier to access liability for cleaning up the property. He said this is a paper alley and this piece of right-of-way that exists was never accepted for maintenance by the City which means no one now is assuming responsibility for dealing with the issue. By cleaning up this gray area, Mr. Duke noted it would be much easier to access responsibility for cleaning up what has been alleged to be a trash problem. He reported given the streams that are present, it is extremely unlikely to physically open the alley.

City Manager Baker noted that in Eric Pauken's correspondence the citizen may feel that closing the public alley would allow the property owner to not maintain the property.

City/County Planning Director Frank Duke stated the issue with any illegal dumping would be independent of the issues associated with a site plan and zoning issues.

Attorney James H. Hughes, representing Henry Couch, spoke in opposition to this street closing. He noted Mr. Couch owns property around this area and is the owner of one of the lots, but has access to the front of his lot from Murray Avenue, but cannot get to the back of the lot with any type of vehicle from the front without going into the neighbor's yard. He reported this alley has been used in the past by Mr. Couch and his family who plans to move back to this property sometime in the future. Attorney Hughes made comments on the access points to the back of the lot. He noted Mr. Couch needs a wide access in order to get a large vehicle or trailer to back of this lot and unfortunately, in 1990, the Highland Avenue access point was closed and that access to the alley was closed, Roxboro Road and 15 foot alley are other points. He reported that Mr. Couch was requested to clean up some of the trash behind his lot. Attorney Hughes noted he agrees that there are problems with trying to work out maintenance between who has responsibility, but it is not an unsolvable problem in comparison to taking a life-long access away from a property owner of Durham and closing off his ability to use the back of his property which will be his future home. He urged Council to deny this request in light of the closing of Highland Avenue and the assurances given to Mr. Couch in 1990 of the two access points—Roxboro Road and the 15-foot alley which is impossible to use because of the angle and width of alley. He provided Council with a letter that was given to Mr. Couch in 1990.

Mayor Bell asked Attorney Hughes if this information had been shared with staff.

Attorney Hughes replied no.

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Duane Stewart stated the applicant maintains that Mr. Couch has access to the rear of his property not only through his only property, but there is still an outing to the east of this property.

Council Member Catotti asked staff if they were aware of the concerns of Mr. Couch as presented by Attorney Hughes.

City/County Planning Director Frank Duke replied yes. He stated he has seen the letter that was written in 1990 that Attorney Hughes made reference to describing the situation when Council was pursuing a different street closing—and it indicated with this particular roadway closing there are other points of access which is not a commitment that all the rights-of-way that existed in 1990 would continue to be opened and staff had no authority to make that kind of commitment. He said the letter is a description of the situation that existed in 1990 and there is still reasonable ingress and egress.

If this item is deferred, Council Member Catotti requested additional mapping.

MOTION by Council Member Clement seconded by Council Member Stith to continue the public hearing to the September 18, 2006 City Council Meeting was approved at 10:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: STREET CLOSING (SC06-05) – 255.05 LINEAR FEET OF GEORGE STREET – DAVID COGHILL – WEST OF ROANE ROAD, EAST OF MAYO STREET AND NORTH OF CHEEK ROAD

To receive public comments on the closing of 255.05 linear feet of George Street; and

To adopt an Order permanently closing 255.05 linear feet of George Street, conditioned on the recombination of lots and the dedication of right-of-way for such property deemed sufficient by the City.

City/County Planning Director Frank Duke briefed Council on the street closing. He noted this street closing would not create any adverse impact on service agencies. He stated staff is recommending approval of this request.

Mayor Bell opened the public hearing.

Ralph Holloway, of 401 E. Pilot Street, spoke in opposition to this street closing. He stated if he or his family wanted to develop anything on the back of their lots, they would not be able to do it because the City allowed someone to build a house in the middle of the street coming off Mayo Street and east towards Roane Street. He urged Council to not close George Street.

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Kenneth R. Holloway, of 2300 Wintergreen Street, spoke in opposition to this street closing. He made comments on the lots owned by his family noting they would not have egress to their property to use it, or do anything if the street is closed.

It was indicated that the applicant, Dave Coghill, was not present at this meeting.

Council Member Clement expressed concern that the proponent was not present to support his request.

Council Member Stith expressed a concern with restricting access to the property outlined.

Council Member Woodard asked staff if the applicant owns an adjacent piece of property.

City/County Planning Director Frank Duke stated presumably the applicant is the owner of one of the adjacent properties.

Mayor Bell closed the public hearing.

Council Member Catotti asked staff if there are rules about maintaining future access when property owners have deep lots with the intention in the future to subdivide them.

City/County Planning Director Frank Duke noted they do have access directly under Cheek Road because of the configuration of these lots, but further subdivision will be difficult. Also, Mr. Duke stated it would be difficult to do a development on these four parcels given the configuration.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments on the closing of 255.05 linear feet of George Street; and

To adopt an Order permanently closing 255.05 linear feet of George Street, conditioned on the recombination of lots and the dedication of right-of-way for such property deemed sufficient by the City **FAILED** at 10:31 p.m. by the following vote: Ayes: None. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: PIGGYBACK PURCHASE – TWO POTHOLE PATCHERS - PUBLIC WORKS EQUIPMENT AND SUPPLY, INC.

Council Member Clement raised a concern that staff is now seeking authorization 20 years later since the City of Raleigh implemented a program to fill potholes in 1986.

City Manager Baker noted this item came up during his tenure to improve service delivery.

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MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to enter into a contract with Public Works Equipment and Supply, Inc., in the amount of \$140,736, for providing the City with two Pothole Patch Truck Bodies; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 10:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: REVISION OF CITY OF DURHAM'S MINIMUM HOUSING CODE

Melvin Whitley, of 2614 Harvard Avenue, spoke in support of this item. He asked Council to put a policy in place for energy conservation.

MOTION by Council Member Stith seconded by Council Member Woodard to adopt an Ordinance Amending portions of Article VI of Chapter 6 of the Durham City Code pertaining to the Minimum Housing Code was approved at 10:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13305

SUBJECT: ADOPTION OF THE DURHAMWALKS COMPREHENSIVE PEDESTRIAN PLAN AND APPROVAL OF THE 2005 BOND PROJECTS FOR PEDESTRIAN IMPROVEMENTS

It was indicated that individuals who had signed up to speak in opposition to this item left the meeting earlier.

MOTION by Council Member Catotti seconded by Council Member Stith to adopt the DurhamWalks Comprehensive Pedestrian Plan; and

To direct the City Manager to recommend any policy or program changes for further consideration by the City Council; and

To approve the list of selected bond projects for expenditure of the 2005 bonds on new sidewalk construction and sidewalk maintenance was approved at 10:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

September 5, 2006

PROJECT NAME	LENGTH (Feet)	TOTAL COST
Club1	5,000	\$263,000
DearbornA1	4,000	\$547,000
GarrettA1	3,200	\$403,200
CIP Project Garrett Road Extension will construct 600 feet of this project NCDOT Projects for Garrett Road turn lanes will construct 800 feet of this project		
HillandaleA2	3,400	\$274,0000
NCDOT Project I-306C has constructed portions of sidewalk		
Hope Valley A1	2,400	\$225,600
CIP Project NC 751 Widening Phase I will construct 2,500 feet of this project		
Subtotal		\$1,712,800
Contingency		\$259,920

There being no further business to come before the City Council, the meeting was adjourned at 10:39 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk